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MAR 8 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

March 8, 1995

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Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: Notice of Proposed Rulemaking  
GC Docket No. 95-21

Dear Mr. Caton:

Enclosed for filing are an original and four copies of a motion by this Association for extension of time for the filing of comments in the above proceeding dealing with the Commission's ex parte rules. I suggest that any questions regarding this filing be addressed to the Chair of our Ex Parte Rules Committee, John Griffith Johnson, Jr., Esq., Bryan Cave, 700 Thirteenth Street, N.W., Washington, D.C. 20005-3960 (202/508-6146).

Sincerely,

*Sidney White Rhyme*  
Sidney White Rhyme  
President

SWR/wp  
Enclosure

cc: William E. Kennard, Esq., FCC General Counsel  
David S. Senzel, Esq., FCC OGC  
David H. Solomon, Esq., FCC OGC  
John Griffith Johnson, Jr., Esq., Chair  
FCBA Ex Parte Rules Committee

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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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In the Matter of )  
)  
)

Amendment of 47 C.F.R. § 1.1200 )  
et seq. Concerning Ex Parte )  
Presentations in Commission )  
Proceedings )  
\_\_\_\_\_ )

GC Docket No. 95-21

To: The Commission

**MOTION TO EXTEND TIME IN WHICH TO FILE COMMENTS AND REPLIES**

The Federal Communications Bar Association (the "FCBA" or "Association"), a non-profit, non-stock corporation organized under the laws of the District of Columbia and in existence since 1936, by its undersigned representatives and in accordance with Section 1.46(b) of the Commission's Rules, hereby respectfully moves the Commission to extend the dates for filing comments and replies to comments in the captioned proceeding. In support, the FCBA submits the following:

1. The FCBA's membership consists of more than 2,300 communications lawyers and other professionals having an interest in the development of communications law and policy. As such, the FCBA membership is vitally interested in the matters raised in the Notice of Proposed Rule Making in this proceeding, 60 Fed. Reg. 8995 (February 16, 1995) (the

"Notice"). On a regular basis in the conduct of their profession, lawyers practicing before the Commission are called upon to counsel their clients with respect to compliance with the Commission's ex parte rules and to promote such compliance. Indeed, no other organization's membership is likely to be as significantly affected by the changes in those rules proposed in the Notice as is the FCBA's membership. For that reason, the Association intends to participate in this proceeding by filing comments and, if warranted, replies to the comments of others.

2. Some of the proposals in the Notice appear likely to generate discussion, debate, and possible controversy among the members of the FCBA. The Association cannot speak for its members without first determining whether substantial agreement exists within the membership with respect to positions to be taken in comments to be filed in response to the Notice. The process of undertaking that determination necessarily will consume more time than is contemplated by the Notice's requirement that comments be filed by March 16, 1995 and that replies to comments be filed by March 31, 1995. In order to afford it an opportunity to ascertain the thinking of its members and, based upon that ascertainment, to prepare effective comments, the FCBA respectfully requests an extension of 90 days, to and including June 14, 1995, in which to submit comments, and an equivalent extension of 90 days, to and including June 29, 1995, in which to submit replies to comments. As will be shown below, such extensions will provide the minimum amounts of time needed for the FCBA to undertake a meaningful assay of its members' reactions to the proposals in the Notice and to prepare comments for filing with the Commission based upon that undertaking.

3. The first regularly-scheduled meeting of the FCBA's Executive Committee following the release on February 7, 1995 of the Notice, FCC 95-52, was on February 22, 1995. At that meeting, the Executive Committee authorized the following steps to be taken:

- An announcement will be made in the next regularly-scheduled issue of the FCBA's monthly newsletter, due to be distributed in early April (the March newsletter having already gone to press), inviting FCBA members to contact the Chair of the FCBA's ad hoc Ex Parte Rules Committee in order to convey their recommendations for positions that the FCBA should take with respect to the proposals in the Notice;
- The Co-Chairs of the FCBA's various substantive practice committees (e.g., the Mass Media Practice Committee, the Common Carrier Practice Committee, the Adjudicatory Practice Committee, etc.) will be asked to add to the agendas of their next regularly-scheduled committee meetings an item concerning the issues raised in the Notice; and
- The FCBA's Ex Parte Rules Committee, in conjunction with the FCBA's Continuing Legal Education Committee, will sponsor a seminar on April 25, 1995 which will address the issues raised in the Notice. <sup>1/</sup> Planning is currently underway for the seminar, which may include representatives from the Commission, from the Association, and from at least one other federal agency performing functions similar to those performed by the Commission and having its own regulations governing presentations to such agency on an ex parte basis. <sup>2/</sup> It is anticipated that the seminar will be a useful vehicle for the exchange of opinions with respect to the proposals in the Notice. <sup>3/</sup>

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<sup>1/</sup> Due to the amount of advance time needed to make arrangements for such a seminar, April 25 is the earliest date on which the seminar could be held with adequate prior notice to the FCBA's membership.

<sup>2/</sup> The Notice specifically invites commenters to compare and contrast the Commission's ex parte rules with similar rules of other federal agencies. Notice, at Para. 37.

<sup>3/</sup> It is recognized that in order for any decision-making personnel from the Commission to participate in the seminar, a special exemption from the current ex parte rules may be required. Cf. Notice, at Para. 41 and n. 21. As planning for the April 25 seminar progresses, the FCBA will formally request such an exemption from the Commission.


4. The April 25 seminar, combined with the other efforts described above to stimulate Association members to make known to the FCBA's Ex Parte Rules Committee their views on the proposals in the Notice, should enable that Committee to be in a position to report to the FCBA's Executive Committee at its regularly-scheduled meeting on May 23, 1995 with respect to the membership's attitude concerning comments by the Association upon those proposals. The Executive Committee at that meeting can then instruct the Ex Parte Rules Committee to draft appropriate comments to be filed with the Commission in this proceeding on behalf of and in the name of the FCBA. Those comments can be drafted by the Ex Parte Rules Committee and presented to the Executive Committee by its next regularly-scheduled meeting on June 13, 1995. Upon approval of the draft comments with any changes at that meeting, they can be finalized and filed with the Commission the following day.

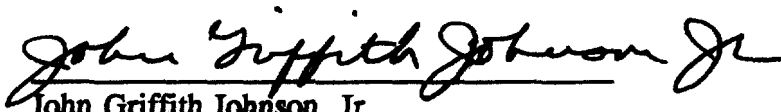
5. Accordingly, an extension of time until June 14, 1995 in which to file comments, and a corresponding extension of time until June 29, 1995 in which to file any replies to comments, is respectfully requested. As the Commission will see from the foregoing, these periods of time represent the minimum extensions needed in order for the FCBA to determine its members' views on the matters raised in the Notice and to prepare useful comments. Given the importance of the proposals in this proceeding to the FCBA's membership, the fact that the ex parte rules have not undergone a wide-ranging review since 1987, Notice at Para. 3 and n. 2, and the benefit that the views of the FCBA could provide to the Commission in crafting modifications to those rules, an extension of 90 days' time in which to submit comments and replies is neither unreasonable nor excessive, and would serve the public interest.

WHEREFORE, the FCBA respectfully moves the Commission to extend the date by which comments in this proceeding may be filed to and including June 14, 1995, and to extend the date by which replies to such comments may be filed to and including June 29, 1995.

Respectfully submitted,

**FEDERAL COMMUNICATIONS BAR ASSOCIATION**

By:   
S. White Rhyne  
President

  
John Griffith Johnson, Jr.  
Chair, Ex Parte Rules Committee

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